

AMENDED IN ASSEMBLY JUNE 1, 2010

AMENDED IN ASSEMBLY APRIL 27, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

## ASSEMBLY BILL

No. 2605

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**Introduced by Assembly Member De La Torre**

February 19, 2010

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~~An act to amend Section 19525 of the Revenue and Taxation Code, relating to taxation.~~ *An act to amend Section 14670.13 of the Government Code, relating to state property.*

### LEGISLATIVE COUNSEL'S DIGEST

AB 2605, as amended, De La Torre. ~~Income and corporation taxes: fraud reporting: reward program.~~ *State property: sales.*

*(1) Existing law, enacted in 2009, authorized the sale or lease of specified real property or buildings, or both, in Los Angeles, Oakland, Rancho Cordova, Sacramento, San Francisco, and Santa Rosa. Existing law authorizes the Director of General Services to determine the terms and conditions that are to be imposed upon that sale or lease, for the best interests of the state.*

*This bill would require the Director of General Services, at least 30 days prior to executing a transaction for a sale or lease as described above, to submit to the chairs of the fiscal committees of the Legislature an analysis of the transaction comparing the costs and benefits to the state of a sale or lease of the real property or building to continued ownership over a 50-year period. The bill would prohibit the real property or buildings from being sold or leased until the Legislature determines that the transaction is in the best interests of the state, makes a finding to this effect, and explicitly authorizes the sale by statute.*

~~Existing tax laws impose various taxes and fees, and authorize the Franchise Tax Board to administer the assessment, audit, and collection of various taxes and fees. Existing law authorizes the Franchise Tax Board to establish a reward program for information resulting in the identification of underreported or unreported income subject to taxes.~~

~~This bill would instead require the Franchise Tax Board to establish a reward program under specified circumstances where, if the Franchise Tax Board proceeds with an administrative or judicial action based on information brought to the board's attention by an individual, the individual would receive a percentage of any collected proceeds, as defined, of the administrative action, judicial action, or settlement in response to that action. This bill would apply only to information that is initially received by the Franchise Tax Board on or after January 1, 2011. This bill would require the information provided to the board to be submitted under the penalty of perjury.~~

~~This bill, by expanding the definition of an existing crime, would impose a state-mandated local program.~~

~~The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: ~~yes~~*no*.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 14670.13 of the Government Code is  
2     amended to read:  
3     14670.13. (a) Notwithstanding any other law, but subject to  
4     the conditions specified in ~~subdivision~~ *subdivisions (c) and (e)*,  
5     the Department of General Services may enter into a sale or  
6     long-term lease of the properties specified in subdivision (b). A  
7     sale or long-term lease entered into pursuant to this section may  
8     include an option for the state to repurchase that property or  
9     building, or both. ~~The Subject to the limitations of this section, the~~  
10    Director of General Services may determine the other terms and  
11    conditions that shall be imposed upon that sale or lease, for the  
12    best ~~interest~~ *interests* of the state. Any sale of property pursuant  
13    to this section shall be for no less than fair market value.

1 (b) ~~The~~ *Subject to the conditions specified in subdivisions (c)*  
2 *and (e), the* Department of General Services may enter into a sale  
3 or long-term lease pursuant to this section for any, or all, of the  
4 following real properties or buildings, or both:

5 (1) The Attorney General Building located at 1300 I Street in  
6 the City of Sacramento.

7 (2) The California Emergency Management Agency Building  
8 located at 3650 ~~Schreiver~~ *Schriever* Avenue in the City of Rancho  
9 Cordova.

10 (3) The Capitol Area East End Complex, located in the City of  
11 Sacramento, at all of the following locations:

12 (A) Block 225 located at 1430 N Street in the City of  
13 Sacramento.

14 (B) Block 171 located at 1501 Capitol Avenue in the City of  
15 Sacramento.

16 (C) Block 172 located at 1500 Capitol Avenue in the City of  
17 Sacramento.

18 (D) Block 173 located at 1615 Capitol Avenue in the City of  
19 Sacramento.

20 (E) Block 174 located at 1616 Capitol Avenue in the City of  
21 Sacramento.

22 (F) The parking facility located at 1214 17th Street in the City  
23 of Sacramento.

24 (4) The Elihu M. Harris Building located at 1515 Clay Street  
25 in the City of Oakland.

26 (5) The Franchise Tax Board Complex located at 9645  
27 Butterfield Way in the City of Sacramento.

28 (6) The San Francisco Civic Center, also known as the Earl  
29 ~~Warren / Hiram~~ *Warren/Hiram* Johnson Building, at both of the  
30 following locations:

31 (A) 350 McAllister Street in the City and County of San  
32 Francisco.

33 (B) 455 Golden Gate Avenue in the City and County of San  
34 Francisco.

35 (7) The New Junipero Serra State Building located at 320 West  
36 4th Street in the City of Los Angeles.

37 (8) The Department of Justice Building located at 4949  
38 Broadway in the City of Sacramento.

(9) The Public Utilities Commission Building, also known as the Governor Edmund G. “Pat” Brown Building, located at 505 Van Ness Avenue in the City and County of San Francisco.

(10) The Judge Joseph A. Rattigan Building located at 50 D Street in the City of Santa Rosa.

(11) The Ronald Reagan State Building located at 300 South Spring Street in the City of Los Angeles.

(c) (1) The Legislature hereby finds and declares it may be infeasible to sell or lease the real property or buildings listed in subdivision (b), if the real property or buildings have outstanding lease revenue bonds due to bond covenants, market disclosure issues, and federal tax regulations and the bonds cannot be defeased or otherwise retired.

(2) If the proceeds of a sale subject to this section will be used to defease or otherwise retire lease revenue bonds on real property or a building listed in subdivision (b), the proceeds in an amount necessary to defease or retire the bonds are hereby appropriated to the Department of General Services, and the Department of General Services may sell that building or real property pursuant to this section, including a fee simple sale or the sale of a lesser property interest, such as a long-term lease of the real property, only if the issuer and trustee for the bonds approves the sale transaction and this approval takes into consideration, among other things, that the proposed sale transaction will not breach any covenant or obligation of the issuer or trustee.

(d) The disposition of the real properties or buildings, or both, pursuant to this section does not constitute a sale or other disposition of surplus state property within the meaning of Section 9 of Article III of the California Constitution and shall not be subject to subdivision (g) of Section 11011.

(e) (1) Thirty days prior to executing a transaction for a sale or lease of any of the real property or buildings listed in subdivision (b), the Director of General Services shall report to the chairs of the fiscal committees of the Legislature the terms and conditions of the transaction, including, but not limited to, the financial terms.

(2) *At least 30 days prior to executing a transaction for a sale or lease of any of the real property or buildings listed in subdivision (b), the Director of General Services shall submit to the chairpersons of the fiscal committees of the Legislature an analysis of the transaction comparing the costs and benefits to the*

1 *state of a sale or lease of the real property or building to the*  
2 *continued ownership of the real property or building over a 50-year*  
3 *period. The real property or buildings shall not be sold or leased*  
4 *until the Legislature determines that the transaction is in the best*  
5 *interests of the state, makes a finding to this effect, and explicitly*  
6 *authorizes the sale by statute.*

7 (f) Commencing in 2010, on or before June 30 of each year  
8 following the enactment of this section, the Director of General  
9 Services shall report the status of any completed or pending sales  
10 pursuant to this section to the fiscal committees of the Legislature.

11 (g) (1) The Department of General Services shall be reimbursed  
12 for any reasonable costs or expenses incurred pursuant to this  
13 section.

14 (2) All issuer- and trustee-related costs of reviewing any  
15 proposed sale transaction, and all costs related to the defeasance  
16 or other retirement of any bonds, including the cost of nationally  
17 recognized bond counsel, shall be paid from the proceeds of a sale  
18 or lease conducted pursuant to this section.

19 (3) The Department of General Services shall deposit in the  
20 General Fund the net proceeds from the sale or long-term lease of  
21 the real properties or buildings leases, or both, made pursuant to  
22 this section, after deducting the amount of reimbursement for costs  
23 incurred pursuant to this section or the reimbursement of  
24 adjustments to the General Fund loan.

25 (h) (1) The disposition of state real property or buildings  
26 specified in subdivision (b) that are made on an “as is” basis shall  
27 be exempt from Chapter 3 (commencing with Section 21100) to  
28 Chapter 6 (commencing with Section 21165), inclusive, of Division  
29 13 of the Public Resources Code. Upon title to the parcel vesting  
30 in the purchaser or transferee of the property, the purchaser or  
31 transferee shall be subject to any local governmental land use  
32 entitlement approval requirements and to Chapter 3 (commencing  
33 with Section 21100) to Chapter 6 (commencing with Section  
34 21165), inclusive, of Division 13 of the Public Resources Code.

35 (2) If the disposition of state real property or buildings specified  
36 in subdivision (b) is not made on an “as is” basis and close of  
37 escrow is contingent on the satisfaction of a local governmental  
38 land use entitlement approval requirement or compliance by the  
39 local government with Chapter 3 (commencing with Section 21100)  
40 to Chapter 6 (commencing with Section 21165), inclusive, of

1 Division 13 of the Public Resources Code, the execution of the  
2 purchase and sale agreement or of the exchange agreement by all  
3 parties to the agreement shall be exempt from Chapter 3  
4 (commencing with Section 21100) to Chapter 6 (commencing with  
5 Section 21165), inclusive, of Division 13 of the Public Resources  
6 Code.

7 (3) For the purposes of this subdivision, “disposition” means  
8 the sale, lease or repurchase of state property or buildings specified  
9 in subdivision (b).

10 SECTION 1. ~~Section 19525 of the Revenue and Taxation Code~~  
11 ~~is amended to read:~~

12 ~~19525. (a) The Franchise Tax Board, under regulations~~  
13 ~~prescribed by the Franchise Tax Board, shall establish a reward~~  
14 ~~program for information resulting in the identification of~~  
15 ~~underreported or unreported income subject to taxes imposed by~~  
16 ~~Part 10 (commencing with Section 17001) or Part 11 (commencing~~  
17 ~~with Section 23001).~~

18 ~~(b) (1) If the Franchise Tax Board proceeds with an~~  
19 ~~administrative or judicial action based on information brought to~~  
20 ~~the Franchise Tax Board’s attention by an individual, the individual~~  
21 ~~shall, subject to paragraph (2), receive as a reward 25 percent of~~  
22 ~~the collected proceeds of the administrative or judicial action, or~~  
23 ~~related action, or from any settlement in response to that action,~~  
24 ~~not to exceed two hundred fifty thousand dollars (\$250,000).~~

25 ~~(2) (A) In the event the administrative or judicial action is one~~  
26 ~~which the Franchise Tax Board determines to be based principally~~  
27 ~~on disclosures of specified allegations arising from an~~  
28 ~~administrative or judicial hearing, from a governmental report,~~  
29 ~~hearing, audit, or investigation, or from the news media, the~~  
30 ~~Franchise Tax Board may award 10 percent of the collected~~  
31 ~~proceeds resulting from the administrative or judicial action, or~~  
32 ~~related action, or from any settlement in response to that action,~~  
33 ~~not to exceed one hundred thousand dollars (\$100,000). In~~  
34 ~~determining the reward amount, the Franchise Tax Board shall~~  
35 ~~take into account the significance of the individual’s information~~  
36 ~~and the role of the individual, and any legal representative of the~~  
37 ~~individual, in contributing to the administrative hearing, judicial~~  
38 ~~hearing, or settlement.~~

1     ~~(B) The reward limitation described in this paragraph shall not~~  
2     ~~apply if the information resulting in the administrative or judicial~~  
3     ~~action was originally provided by the individual.~~

4     ~~(c) The reward program shall apply to administrative or judicial~~  
5     ~~actions against any taxpayer whose tax liability arose under Part~~  
6     ~~10 (commencing with Section 17001) or Part 11 (commencing~~  
7     ~~with Section 23001), but in the case of a person whose income is~~  
8     ~~subject to taxes under Part 10 (commencing with Section 17001);~~  
9     ~~only if the person's gross income as adjusted exceeds two hundred~~  
10    ~~fifty thousand dollars (\$250,000) for any taxable year subject to~~  
11    ~~the administrative or judicial action and the tax, penalties, interest,~~  
12    ~~additions to tax, and additional amounts in dispute in the~~  
13    ~~administrative or judicial action exceed two million dollars~~  
14    ~~(\$2,000,000). Whether the amount in dispute exceeds two million~~  
15    ~~dollars (\$2,000,000) shall be determined by the Franchise Tax~~  
16    ~~Board after the administrative or judicial action has been finalized~~  
17    ~~by the Franchise Tax Board.~~

18    ~~(d) For purposes of this section, "collected proceeds" includes,~~  
19    ~~but is not limited to, penalties, interest, additions to tax, and any~~  
20    ~~additional amounts.~~

21    ~~(e) A contract with the Franchise Tax Board shall not be~~  
22    ~~necessary for any individual to receive a reward under this section.~~

23    ~~(f) An individual who may receive a reward under this section~~  
24    ~~may be represented by counsel.~~

25    ~~(g) Any individual employed or formerly employed by or under~~  
26    ~~contract with any state or federal tax collection agency shall not~~  
27    ~~be eligible for a reward provided for pursuant to this section.~~

28    ~~(h) No reward shall be made under this section based on~~  
29    ~~information submitted to the Franchise Tax Board unless the~~  
30    ~~information is submitted under penalty of perjury.~~

31    ~~(i) The Franchise Tax Board shall pay the reward amount 60~~  
32    ~~days after the last of the following has occurred:~~

33    ~~(1) The collected proceeds resulting from the administrative or~~  
34    ~~judicial action, or related action, or from any settlement in response~~  
35    ~~to that action are deposited into the General Fund.~~

36    ~~(2) All legal remedies have been exhausted.~~

37    ~~(3) The statute of limitations for filing a claim for refund for,~~  
38    ~~or otherwise for contesting, any tax or penalty has expired.~~

1     ~~(j) The Franchise Tax Board shall have full discretion in~~  
2     ~~determining whether the information provided by and individual~~  
3     ~~warrants further investigation.~~

4     ~~(k) The amendments made to this section by the act adding this~~  
5     ~~subdivision shall apply to information resulting in the identification~~  
6     ~~of underreported or unreported income subject to taxes imposed~~  
7     ~~by Part 10 (commencing with Section 17001) or Part 11~~  
8     ~~(commencing with Section 23001) that is initially received by the~~  
9     ~~Franchise Tax Board on and after January 1, 2011. Any information~~  
10    ~~resulting in the identification of underreported or unreported~~  
11    ~~income subject to taxes imposed by Part 10 (commencing with~~  
12    ~~Section 17001) or Part 11 (commencing with Section 23001) that~~  
13    ~~was received by the Franchise Tax Board before January 1, 2011,~~  
14    ~~shall not be eligible for the reward program.~~

15    ~~SEC. 2. No reimbursement is required by this act pursuant to~~  
16    ~~Section 6 of Article XIII B of the California Constitution because~~  
17    ~~the only costs that may be incurred by a local agency or school~~  
18    ~~district will be incurred because this act creates a new crime or~~  
19    ~~infraction, eliminates a crime or infraction, or changes the penalty~~  
20    ~~for a crime or infraction, within the meaning of Section 17556 of~~  
21    ~~the Government Code, or changes the definition of a crime within~~  
22    ~~the meaning of Section 6 of Article XIII B of the California~~  
23    ~~Constitution.~~